

ENVIRONMENTAL HEARINGS OFFICE

Minutes of Meeting

July 15, 2008

9:30 a.m.

The July 2008 meeting was called to order by Chair Kathy Mix in the Boards' office in Lacey, Washington. Present were Chair Kathy Mix, Board Members Bill Lynch and Andrea McNamara Doyle, Administrative Appeal Judges Phyllis Macleod, Kay Brown and Cassandra Noble, Administrative Manager Robyn Bryant, Hearings Coordinator Debbie Joblonski and Administrative Secretary Janet Buechler. Minutes of the June 2008 meeting were read and approved.

Handouts were distributed for review which included the pollution, shoreline, forest practice, hydraulic, and environmental and land use appeals filed, a brief summary of all cases that have closed and the Case Statistics Report.

Appellate Update

Chair Kathy Mix reported that there were three superior court appeals for this month, *Cornelius, et al v. Ecology and WSU*, PCHB No. 06-099, filed in Whitman County; *Phil Smith v. Ecology*, PCHB No. 08-007; and *Pacific Topsoils, et al v. Ecology*, Consolidated cases number PCHB No. 07-046 and 07-047, filed in Thurston County.

It was also reported that the cases *I-5 Properties, et al. v. Ecology*, PCHB 05-063, Whatcom County Superior Court Cause No. 07-2-00550-8; and *May, et al. v. Robertson, et al.*, SHB 06-031, Pierce County Superior Court Cause No. 07-2-08064-9, have been appealed to the Court of Appeals.

Financial Update

Robyn Bryant reported that we have reached the end of the 2008 fiscal year but that final reporting figures for the year will not be available until sometime in August. However, the budget will end up in the black.

The 2009-2011 biennium's budget is due August 18th. The Board is contemplating requesting additional funds for travel to hearings due to rising fuel costs.

IT Portfolio/IT Security Plan/Disaster Recovery—Business Resumption Plan

The State requires that the IT Security and Disaster Recovery plans be reviewed annually. Copies of the documents were distributed. These documents need to be reviewed and any questions should be directed to Robyn.

With regard to the IT Portfolio, there will be a review of what may be the next step in IT projects for the office. If anyone has a specific request, it should be brought up to Robyn.

The office security system was reviewed. The security system will be tested at least on a quarterly basis. Everyone was also reminded that during any necessary evacuation of the office, the Northeast side of the building is the designated meeting place.

Customer Survey

Progress on the upcoming Customer Survey was next brought up by Robyn. Everyone was given a sample of the proposed survey and letter. There was discussion of the procedures to mail to a representative selection of participants and also setting up the ability to complete the survey online. Phyllis Macleod questioned as to how many responses were necessary to be a representative response. This question will have to be answered by the company conducting the survey.

Bill Lynch suggested that we add a question on prior participation in the previous survey and whether they saw any improvement in the agency. Kathy Mix commented on the amount of space given to Mediation and there was a discussion on removing or combining questions. These matters will be brought up with the survey company. Andrea Doyle further suggested that the different Boards under the EHO should be specifically listed. Any further comments by the Board on the survey itself should be presented to Robyn by July 22nd.

Phyllis further suggested that the survey not be sent out until the fall to increase the likelihood of participants filling it out.

Links on EHO Website

Cassandra Noble questioned as to whether or not we might place links under the Resources tab to the Court of Appeals case processing guide and brief writing practices to assist pro se people in prosecuting their appeals. It was decided that Debbie will need to follow up on this prior to the next meeting.

Best Practices

A procedure to notify the rest of the office of a Judge or Board Members need to recuse themselves from a case was next discussed. It was agreed to institute a complete firewall to avoid any appearance of influence. For the time being, an e-mail will be sent to everyone in the office notifying them of the recusal and a colored label with non-disclosure language will be placed on the front of all volumes of the affected file. Finalizing a more comprehensive firewall policy will be revisited at another meeting after a review of what is currently in place.

Air Appeals

Final comments have been received from the different air authorities on how to improve the process of air pollution appeals. Kathy indicated that the comment most received was that there was not enough time to try to settle the matter on their own between the time of appeal and the pre-hearing conference setting. Settings were experimentally being made further out to encourage settlement within the pre-hearing process. It was also suggested to make those appealing pro se aware that they can call the air authorities on their own to try to settle the matter.

Scheduling

Debbie reported getting a lot of rescheduling calls. Prehearing conferences may need to be set further ahead in order to give the parties time to receive the scheduling letters by mail and clear their own calendars for the date and time.

Announcements

Kudos were given to Debbie for her excellent communication in the scheduling process.

Bill mentioned the compliments that were received from the press office of Massachusetts Governor Deval Patrick on how impressed they were with the EHO website, particularly the calendar and the amount of information it contains. It was suggested that these positive comments be forwarded to Joyce Turner in the Washington Governor's Office.

Cassandra reported that the Plain Talk report will be due to the Governor's office soon.

Meeting adjourned.

Janet Buechler
Administrative Secretary